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In the District Court of the Fourth Judicial District,
County of Wasatch, State of Utah.

Provo Reservoir Company,
a corporation,
Plaintiff,
vs
Provo City, et al.
Defendants.

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1 ANSWER
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Now comes Thomas Winterton one of the defendants
in the above entitled action and in answer to the complaint of the
plaintiff on file herein admits, denies and alleges as follows:

1. Defendant has no information or belief sufficient to enable
him to otherwise answer and upon that ground denies paragraph one
of said complaint and this defendant denies paragraphs 28, 29, 29a,
29b, 29c, 29d, 29e, 30, 31, 32, 33, 38, 39, 35 and 36 of said complaint.

This defendant denies generally and specifically each and every
allegation in the plaintiff's complaint contained, not herein spec-
ifically admitted.

2. Defendant admits paragraphs two to eight inclusive, and
admits paragraphs 24 and 27 of said complaint.

Further answering said complaint, as a defense thereto and as
grounds for affirmative relief this defendant alleges as follows:

1. That the defendant is the owner in fee of 18 acres of land
in Wasatch county, State of Utah, and adjacent to said Provo River,
which land was and still is barren and unproductive of agricultural
crops without artificial irrigation, but when irrigated said lands
produce abundantly all kinds of agricultural crops.

2. That more than thirty years ago this defendant, his grantors
and predecessors in interest, for the purpose of reclaiming said
land from its then barren condition and rendering it productive
and valuable, by means of dams and ditches diverted and appropriated
large quantities of the therefore unappropriated waters of the said
Provo River and its tributaries to and upon said lands for irrigation
and domestic uses and purposes, and thereby caused said lands to pro-

duce vast quantities of agricultural crops and to become of great value; that at the time said water was diverted from said river by this defendant as aforesaid the same had not been appropriated by any other person or persons whomsoever.

3. That this defendant, his grantors and predecessors in interest have continued from year to year during the irrigation season of each and every year from the time of the first diversion of said waters to use and apply the same upon the aforesaid lands for irrigation purposes and also to use the same for domestic and culinary purposes; that the irrigation season commences about the 15th day of March and ends about the first day of November of each and every year.

4. That the quantity of water of said river and its tributaries to which this defendant is entitled and which has been and is necessarily used by the defendant, his grantors and predecessors in interest since the first appropriation thereof as above set forth is a volume of water flowing _____ cubic feet per _____

5. That this defendant, his grantors and predecessors in interest have for more than 30 years used all of said waters so originally appropriated as aforesaid, openly, peaceably, notoriously, uninterruptedly and adversely as against all the world, and particularly the plaintiff herein, and said use has been and is reasonably necessary for the purposes herein set forth.

6. That on the 6th day of May 1899, in the District Court of the Fourth Judicial District of the State of Utah, sitting in and for Wasatch county, in an action wherein the Wasatch Irrigation Company and others were plaintiffs and Edward Fulton and others were defendants, wherein the waters of said Provo River were involved, a decree was made and entered wherein this defendant and his predecessors in interest were decreed such amount of the waters of said river as was necessary to irrigate his said land up to about the first day of July in each year, during what is known as the high water period, and after the said high water period was gone then this defendant and his predecessors were awarded by said decree _____ cubic feet of water per _____ and that said decree is now in

~~Full force and~~

full force and effect.

7. That during the normal or low water period of each year this and other defendants use the bed of said Provo River as an irrigation ditch and divert all or practically all of the water therefrom at the point where defendant diverts the same, and defendant has so used said river bed for more than twenty-five years last past and that the plaintiff has no right to use said river bed for the purpose of conveying water except in a proper manner and such as this court shall order.

8. That the plaintiff claims and asserts some right and interest in and to the said waters and river bed adverse to this defendant; and the plaintiff has heretofore diverted said waters from this defendant, and used said river bed without authority and in violation of the rights of the defendant, and the defendant is informed and believes and therefore alleges that the plaintiff threatens to and will, unless restrained by decree of this court continue such unlawful and wrongful diversion of the said waters and use said river bed to the great damage and injury of this defendant.

Wherefore defendant prays judgment:

1. That the plaintiff take nothing by its action herein.
2. That the defendant be adjudged and decreed to be the owner and entitled to the use of a volume and quantity of the waters of said river flowing _____ cubic feet per _____ in his ditches without interruption, and that the defendant's title thereto be declared good and valid and that the same be quieted as against the plaintiff and that the plaintiff be forever restrained, and enjoined from asserting any claim whatsoever of, in or, to said waters and from diverting and obstructing the same.
3. That the plaintiff be required to place measuring devices and so arrange that it can use the bed of said river for the purpose of conveying its water therein without cost to this defendant.
4. That the rights of the defendant as fixed and determined by the decree of this court of May 6th 1899, be confirmed and that so much of the waters of said river be decreed to the defendant as is necessary to irrigate his lands and for domestic use.
5. Defendant prays for general relief.
6. Defendant prays for his costs herein expended.

Attorney for the defendant.

State of Utah
County of Wasatch

-----being duly sworn,
on oath deposes and says that he is the defendant above named, that he has read the foregoing answer and knows the contents thereof, that the same is true of his own knowledge, except as to ~~those matters therein set forth upon information and belief and as to~~ those matters he verily believes the same to be true.

Subscribed and sworn to before me this _____ day of July 1914.

Com. expires *March 23, 1917.*

Notary Public

